

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

FILED

JUN 15 2005

U.S. DISTRICT COURT
CLARKSBURG, WV 26301

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL WILSON TESTERMAN,

Defendant.

Criminal No. 1:05CR4 (Keeley)

UNITED STATES' PROPOSED VOIR DIRE

- 1) Have you ever served on a jury before?
 - IF SO, were you able to reach a verdict?
 - IF SO, what was it?
- 2) Have you or a member of your family ever been convicted of a criminal offense?
 - IF SO, what was the offense and how long ago did it happen?
 - IF SO, were you/they convicted at trial or did you/they plead guilty?
 - IF SO, did you/they ever serve time in a jail or prison?
- 3) Are you related to or a close personal friend of anyone who works in law enforcement?
- 4) Is there anyone whose job requires the significant use of a computer?
- 5) Is there anyone who, though not required to use a computer to any significant extent at work, spends a lot of time on a personal computer at home?

- 6) Is there anyone who has never used the internet or who considers themselves to have little or no knowledge of how to use a computer?
- 7) Is there anyone who considers himself or herself to be a computer expert or to have some kind of specialized computer knowledge or training?
- 8) The presentation of this case will likely involve some evidence - in the form of pictures and video clips - that is disturbing to look at. Specifically, it is expected that the evidence will include images depicting young children posed naked in a sexually suggestive manner and/or engaged in sexual acts with adult individuals.

It is not demanded or expected that you view this evidence with emotional indifference. It is however, necessary that you not allow any personal reaction to or personal feelings about these images interfere with your ability to objectively evaluate the evidence and apply the law to the facts.

Is there anyone who thinks that, upon viewing this sort of evidence, they would or might become so upset that they would not be able to discharge their duty as a neutral finder of fact?

- 9) Child pornography is the graphic portrayal of the sexual exploitation of a child. It is not protected as free speech under the First Amendment to the Constitution. Child pornography is illegal contraband under both federal and state law. It is illegal to possess, create, receive, distribute, and transport child pornography.

This case will likely involve evidence of the defendant's internet activities.

Is there anyone who feels that whatever a person does with his or her computer in the privacy of his or her own home is - or should be - off-limits to government regulation?

Is there anyone who believes that the Government has no business trying regulate the use of the internet as it pertains to child pornography?

- 10) In a criminal case, the evidence is what it is. To a great extent, it is not determined by the choice of the parties, but rather, by the manner and circumstances of the alleged offense. In presenting seemingly offensive evidence to you, it is not the intention of the party to upset you, but rather to prove or disprove the charges against the defendant.

This having been said, is there anyone who thinks they might be inclined to develop a bias against a party who exposes them to evidence which they find to be personally offensive?

Respectfully submitted,

THOMAS E. JOHNSTON
UNITED STATES ATTORNEY

By: 

David J. Perri

Assistant United States Attorney

CERTIFICATE OF SERVICE

I, David J. Perri, Assistant United States Attorney for the Northern District of West Virginia, hereby certify that the foregoing "UNITED STATES' PROPOSED VOIR DIRE" was served upon the defendant by placing a true and correct copy thereof in the United States Mail, postage prepaid, and addressed to George Cosenza, Attorney for Defendant, 515 Market St., P.O. Box 4, Parkersburg, WV 26102.

Date: June 15, 2005

By:



David Perri

Assistant United States Attorney